

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NICHOLAS PHILLIPS,

Plaintiff,

v.

OFFICER B. EASON,

Defendant.

No. 2:24-cv-2295 DJC CSK P

ORDER

Plaintiff is a former state prisoner proceeding pro se and in forma pauperis. Plaintiff's motion for substitution of party is before the Court. (ECF No. 34.) However, plaintiff did not provide a proof of service indicating that nonparty S. Eason was personally served with a copy of the motion for substitution. (ECF No. 34.) Rule 25(a)(3) states that the motion for substitution must be served "on nonparties as provided in Rule 4."<sup>1</sup> Fed. R. Civ. P. 25(a)(3). Nonparty S. Eason is entitled to notice that the motion for substitution has been filed, as well as an opportunity to respond to the motion.

Further, although the rule also requires plaintiff to serve a notice of hearing along with the motion for substitution, in the Eastern District of California, motions filed in prisoner cases are submitted for decision on the papers. Local Rule 230(l). Therefore, plaintiff is relieved of the

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<sup>1</sup> The suggestion of death on the record was personally served on nonparty S. Eason under Rule 25(a)(3). (ECF No. 33.)

1 obligation to serve a notice of hearing on S. Eason. Briefing on any motion in this case is  
2 governed by Local Rule 230(l).

3 Because no proof of service was filed with plaintiff's motion for substitution, the motion  
4 is denied without prejudice to its renewal accompanied by such proof of personal service.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for substitution of party  
6 (ECF No. 34) is denied without prejudice.

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8 Dated: December 15, 2025

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10 CHI SOO KIM  
11 UNITED STATES MAGISTRATE JUDGE

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